

SENATE AMENDMENTS

2nd Printing

By: Lucio III

H.B. No. 3177

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the delegation of matters to the executive director of
3 the Texas Commission on Environmental Quality.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 5.122(a), Water Code, is amended to read
6 as follows:

7 (a) The commission by rule or order may delegate to the
8 executive director the commission's authority to act on an
9 application or other request to issue, renew, reopen, transfer,
10 amend, extend, withdraw, revoke, terminate, or modify a permit,
11 license, certificate, registration, or other authorization or
12 approval if:

13 (1) required notice of the application or request for
14 the authorization or approval has been given;

15 (2) the holder of or applicant for the authorization
16 or approval agrees in writing to the action to be taken by the
17 executive director; and

18 (3) the application or request:

19 (A) is uncontested and does not require an
20 evidentiary hearing; ~~or~~

21 (B) has become uncontested before parties are
22 named because each person who requested a contested case hearing
23 within the time allowed by law has:

24 (i) withdrawn the request for a contested

1 case hearing without condition;

2 (ii) withdrawn the request for a contested
3 case hearing conditioned only on the withdrawal of all other
4 hearing requests; or

5 (iii) agreed in writing to the action to be
6 taken by the executive director; or

7 (C) has become uncontested because all parties
8 have agreed in writing to the action to be taken by the executive
9 director.

10 SECTION 2. Section 5.351, Water Code, is amended by adding
11 Subsection (c) to read as follows:

12 (c) Notwithstanding Subsection (b), a person affected by a
13 ruling, order, or decision on a matter delegated to the executive
14 director under Section 5.122 or other law may file a petition to
15 review, set aside, modify, or suspend the ruling, order, or
16 decision not later than the 30th day after:

17 (1) the effective date of the ruling, order, or
18 decision; or

19 (2) if the executive director's ruling, order, or
20 decision is appealed to the commission as authorized by Section
21 5.122(b) or other law, the earlier of:

22 (A) the date the commission denies the appeal; or

23 (B) the date the appeal is overruled by operation
24 of law in accordance with commission rules.

25 SECTION 3. The changes in law made by this Act apply only to
26 a matter delegated to the executive director of the Texas
27 Commission on Environmental Quality under Section 5.122, Water

1 Code, as amended by this Act, on or after the effective date of this
2 Act. A matter delegated before the effective date of this Act is
3 governed by the law in effect at the time the matter was delegated,
4 and the former law is continued in effect for that purpose.

5 SECTION 4. This Act takes effect September 1, 2017.

ADOPTED

MAY 19 2017

Leticia Spaw
Secretary of the Senate

By: Lucio III / Craig Estes

H.B. No. 3177

Substitute the following for H.B. No. 3177:

By: Craig Estes

C.S. H.B. No. 3177

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5 SECTION 1. Section 5.122(a), Water Code, is amended to read
6 as follows:

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8 executive director the commission's authority to act on an
9 application or other request to issue, renew, reopen, transfer,
10 amend, extend, withdraw, revoke, terminate, or modify a permit,
11 license, certificate, registration, or other authorization or
12 approval if:

13 (1) required notice of the application or request for
14 the authorization or approval has been given;

15 (2) the holder of or applicant for the authorization
16 or approval agrees in writing to the action to be taken by the
17 executive director; and

18 (3) the application or request:

19 (A) is uncontested and does not require an
20 evidentiary hearing; [~~or~~]

21 (B) has become uncontested before parties are
22 named because each person who requested a contested case hearing
23 within the time allowed by law has:

24 (i) withdrawn the request for a contested

1 case hearing without condition;

2 (ii) withdrawn the request for a contested
3 case hearing conditioned only on the withdrawal of all other
4 hearing requests; or

5 (iii) agreed in writing to allow the
6 executive director to make a final decision on the matter; or

7 (C) has become uncontested because all parties
8 have agreed in writing to the action to be taken by the executive
9 director.

10 SECTION 2. Section 5.351, Water Code, is amended by adding
11 Subsection (c) to read as follows:

12 (c) Notwithstanding Subsection (b), a person affected by a
13 ruling, order, or decision on a matter delegated to the executive
14 director under Section 5.122 or other law may, after exhausting any
15 administrative remedies, file a petition to review, set aside,
16 modify, or suspend the ruling, order, or decision not later than the
17 30th day after:

18 (1) the effective date of the ruling, order, or
19 decision; or

20 (2) if the executive director's ruling, order, or
21 decision is appealed to the commission as authorized by Section
22 5.122(b) or other law, the earlier of:

23 (A) the date the commission denies the appeal; or

24 (B) the date the appeal is overruled by operation
25 of law in accordance with commission rules.

26 SECTION 3. The changes in law made by this Act apply only to
27 a final decision made by the executive director of the Texas

1 Commission on Environmental Quality under Section 5.122, Water
2 Code, as amended by this Act, on or after the effective date of this
3 Act. A final decision made by the executive director before the
4 effective date of this Act is governed by the law in effect at the
5 time the final decision was made, and the former law is continued in
6 effect for that purpose.

7 SECTION 4. This Act takes effect September 1, 2017.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 20, 2017

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3177 by Lucio III (Relating to the delegation of matters to the executive director of the Texas Commission on Environmental Quality.), **As Passed 2nd House**

<p>No significant fiscal implication to the State is anticipated.</p>

The bill would amend Texas Water Code, Section 5.122(a) to allow the executive director of the Texas Commission on Environmental Quality (TCEQ) to act on uncontested applications if the application has become uncontested because the person who requested a contested case hearing has withdrawn the hearing request without condition; has withdrawn the hearing request conditioned only on the withdrawal of all other hearing requests; or has agreed in writing to allow the executive director to make a final decision on the matter. The bill would amend Texas Water Code, Section 5.351 to allow judicial review of the executive director's decision on an uncontested matter if an affected person files a petition for judicial review that meet certain requirements. The bill would only apply to matters delegated to the executive director of TCEQ on or after the effective date of the bill. The bill would take effect September 1, 2017.

TCEQ estimates that implementing the provisions of the bill could be done using existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: UP, SD, MSO, SZ

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 17, 2017

TO: Honorable Craig Estes, Chair, Senate Committee on Natural Resources & Economic Development

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB3177** by Lucio III (relating to the delegation of matters to the executive director of the Texas Commission on Environmental Quality.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend Texas Water Code, Section 5.122(a) to allow the executive director of the Texas Commission on Environmental Quality (TCEQ) to act on uncontested applications if the application has become uncontested because the person who requested a contested case hearing has withdrawn the hearing request without condition; has withdrawn the hearing request conditioned only on the withdrawal of all other hearing requests; or has agreed in writing to allow the executive director to make a final decision on the matter. The bill would amend Texas Water Code, Section 5.351 to allow judicial review of the executive director's decision on an uncontested matter if an affected person files a petition for judicial review that meet certain requirements. The bill would only apply to matters delegated to the executive director of TCEQ on or after the effective date of the bill. The bill would take effect September 1, 2017.

TCEQ estimates that implementing the provisions of the bill could be done using existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: UP, MSO, SZ

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

May 11, 2017

TO: Honorable Craig Estes, Chair, Senate Committee on Natural Resources & Economic Development

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB3177** by Lucio III (Relating to the delegation of matters to the executive director of the Texas Commission on Environmental Quality.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend Texas Water Code, Section 5.122(a) to allow the executive director of the Texas Commission on Environmental Quality (TCEQ) to act on uncontested applications if the application has become uncontested because the person who requested a contested case hearing has withdrawn the hearing request without condition; has withdrawn the hearing request conditioned only on the withdrawal of all other hearing requests; or has agreed in writing to the action to be taken by the executive director. The bill would amend Texas Water Code, Section 5.351 to allow judicial review of the executive director's decision on an uncontested matter if an affected person files a petition for judicial review that meet certain requirements. The bill would only apply to matters delegated to the executive director of TCEQ on or after the effective date of the bill. The bill would take effect September 1, 2017.

TCEQ estimates that implementing the provisions of the bill could be done using existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: UP, MSO, SZ

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 29, 2017

TO: Honorable Lyle Larson, Chair, House Committee on Natural Resources

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB3177** by Lucio III (relating to the delegation of matters to the executive director of the Texas Commission on Environmental Quality.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend Texas Water Code, Section 5.122(a) to allow the executive director of the Texas Commission on Environmental Quality (TCEQ) to act on uncontested applications if the application has become uncontested because the person who requested a contested case hearing has withdrawn the hearing request without condition; has withdrawn the hearing request conditioned only on the withdrawal of all other hearing requests; or has agreed in writing to the action to be taken by the executive director. The bill would amend Texas Water Code, Section 5.351 to allow judicial review of the executive director's decision on an uncontested matter if an affected person files a petition for judicial review that meet certain requirements. The bill would only apply to matters delegated to the executive director of TCEQ on or after the effective date of the bill. The bill would take effect September 1, 2017.

TCEQ estimates that implementing the provisions of the bill could be done using existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: UP, MSO, SZ

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION

April 18, 2017

TO: Honorable Lyle Larson, Chair, House Committee on Natural Resources

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB3177 by Lucio III (Relating to the delegation of uncontested matters to the executive director of the Texas Commission on Environmental Quality.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend Texas Water Code, Section 5.122(a) to allow the executive director of the Texas Commission on Environmental Quality (TCEQ) to act on uncontested applications if the application has become uncontested because the person who requested a contested case hearing has withdrawn the hearing request without condition; has withdrawn the hearing request conditioned only on the withdrawal of all other hearing requests; or has agreed in writing to the action to be taken by the executive director. The bill would amend Texas Water Code, Section 5.351 to allow judicial review of the executive director's decision on an uncontested matter if an affected person files a petition for judicial review that meet certain requirements. The bill would only apply to matters delegated to the executive director of TCEQ on or after the effective date of the bill. The bill would take effect September 1, 2017.

TCEQ estimates that implementing the provisions of the bill could be done using existing resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 582 Commission on Environmental Quality

LBB Staff: UP, SZ, MSO